

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MARK ORLANDO,

Petitioner,

MEMORANDUM & ORDER
11-CV-3992 (JS)

-against-

ERIC T. SCHNEIDERMAN,

Respondent.

-----X

APPEARANCES:

For Petitioner: Mark Orlando, Pro Se
05A4730
Clinton Correctional Facility
P.O. Box 2001
Dannemora, New York 12929

For Respondent: No appearance

SEYBERT, District Judge:

Petitioner Mark Orlando ("Petitioner"), appearing pro se, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By Memorandum and Order dated September 27, 2011, Petitioner was ordered to show cause why the Petition should not be dismissed as time-barred by the one-year statute of limitations pursuant to the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). On October 24, 2011, the Court received Petitioner's response to the Court's Order. Upon review of the response, and in accordance with Rule 4 of the Rules Governing Section 2254 Cases, the Court has determined that the Petition should not be summarily dismissed. Accordingly, it is:

ORDERED that the Clerk of Court serve, by electronic transmission, a copy of this Order, the underlying Petition, Petitioner's Affirmation, dated October 13, 2011, and the Exhibits

annexed thereto, on the attorney for Respondent, Eric Schneiderman, and it is further

ORDERED that Respondent shall file a limited answer to the Petition, addressing the timeliness of this Petition under 28 U.S.C. § 2244(d) within thirty (30) days of the date of this Order with proof of service with the Clerk of Court. However, if Respondent concedes that the Petition is timely, Respondent shall file a complete and entire answer to the Petition within sixty (60) days of the date of this Order with proof of service with the Clerk of Court, and it is further

ORDERED that if the Petition is timely, Respondent shall prepare the state court record to be produced and filed upon the Court's request, and it is further

ORDERED that no reply is required, however, should Petitioner want to reply, the reply shall be served on Respondent's counsel and filed with the Clerk of Court within thirty (30) days of receipt of the answer.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: November 15, 2011
Central Islip, New York